

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EUGENE BLACKMON
TDCJ-CID #485431

v.

WARDEN KUKUA, ET AL.

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C.A. NO. C-08-273

ORDER GRANTING LEAVE FOR DEPOSITIONS BY WRITTEN QUESTIONS

Plaintiff is an inmate in the Texas Department of Criminal Justice, Correctional Institutions Division (“TDCJ-CID”). Proceeding pro se, he filed a civil rights action pursuant to 42 U.S.C. § 1983. (D.E. 1). Pending is plaintiff’s letter-motion for a court order requiring prison officials to allow him to correspond with inmates at other institutions. (D.E. 31).

Specifically, plaintiff wants to write inmates Patrick Moore and Joe Nunez. Id. at 1. The TDCJ-CID generally “has a policy that prohibits inmates from corresponding with inmates from another [TDCJ-CID] unit.” Dunn v. TDCJ-ID/Warden Stephens, No. 06-04-12-CV, 2004 WL 911322, at *2 (Tex. App. Apr. 30, 2004) (unpublished). Accordingly, to the extent that plaintiff is seeking a court order allowing him to send letters to these two inmates, his letter-motion is DENIED.

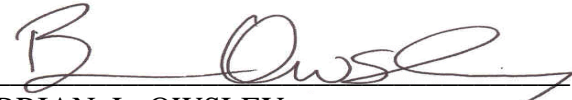
It appears that plaintiff’s letter-motion seeks to enable to prepare his action through discovery. As an initial matter, the Federal Rules of Civil Procedure require that any party seeking to depose by written questions someone “confined in prison” must obtain leave of the court. Fed. R. Civ. P. 31(a)(2)(B); accord Whitehurst v. United States, 231 F.R.D. 500, 501 (S.D. Tex. 2005). Plaintiff is granted leave to take the deposition of inmates Patrick Moore and Joe Nunez. “Unless the parties stipulate otherwise,” deposition by written question must be conducted before an officer. See Fed. R. Civ. P. 28(a)(1); Fed. R. Civ. P. 31(b). The party

serving the deposition must deliver it to the officer. Fed. R. Civ. P. 31(b). Furthermore, the party noticing the deposition has an obligation to notify when the deposition is completed. Fed. R. Civ. P. 31(c). If the parties cannot stipulate, then it is ordered that the law librarian of the unit where Mr. Moore and Mr. Nunez are incarcerated serve as the officer for the two depositions by written questions.

Plaintiff must serve a copy of the deposition by written questions on defendants' attorney. Defense counsel will ensure that the deponents receive the deposition and that the depositions are completed within thirty days of receipt.

Accordingly, to the extent that plaintiff's letter-motion seeks leave to depose a witness by written questions, it is GRANTED consistent with this Order.

ORDERED this 3rd day of February 2009.


BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE